

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

KEVIN L. BALLARD,
Plaintiff,
vs.
SHANE THURMAN and DANIAL
DANAHER,
Defendants.

8:22CV90

**MEMORANDUM
AND ORDER**

On June 28, 2022, the court ordered Plaintiff to supplement his motion to amend (Filing 17) by filing the statements required by NECivR 15.1(a) and a supporting brief. See Filing 18. In response, Plaintiff merely filed a short statement (Filing 25) saying he wishes to add Warden Taggart Boyd as a defendant so that everyone involved in the events of June 9, 2019, can be held accountable.

Warden Boyd was named as a defendant in Plaintiff's original complaint (Filing 1) and was alleged to have failed to protect Plaintiff from injury because he knew that the prisons were overcrowded and understaffed, and, as a result, that staff members were exhibiting symptoms of stress and aggravation. The court determined on initial review of the complaint that no plausible Eighth Amendment claim was stated against Warden Boyd because even if he may have acted unreasonably by failing to remedy these conditions, it could not reasonably be inferred that he was deliberately indifferent to a substantial risk of serious harm to Plaintiff. See Filing 7 at 5 (citing cases on prison overcrowding and understaffing). The allegations against Warden Boyd in Plaintiff's proposed amended complaint (Filing 17) are not materially different, and fail to state a plausible claim for relief. Accordingly,

IT IS ORDERED that Plaintiff's motion to amend (Filings 17, 25) is denied.

Dated this 11th day of August 2022.

BY THE COURT:



Richard G. Kopf
Senior United States District Judge